IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No.5760 of 2006

Date of Decision: 2.11.2006

Ranbir Singh ...Petitioner

Vs.

Naresh Kumar & Ors. ...Respondents

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.Vikram Singh, Advocate,
for the petitioner.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order passed by the learned Additional District Judge, Karnal vide which the appeal filed by the petitioner against the judgment and decree dated 26.11.2005 has been dismissed being barred by limitation.

It is not in dispute that the decree was passed by the Court on 26.11.2005 wherein the petitioner was represented by his counsel and copy whereof was applied on the same day which was supplied to the petitioner on the next day. However, in spite of the receipt of the certified copy, the appeal was filed on 28.1.2006. Along with the appeal an application under section 5 of the Limitation Act was moved wherein a stand was taken that the petitioner came to know about the judgment and decree only on

17.1.2006 when an application under Order 1 Rule 10 of the Code of Civil Procedure was made by Jagpal Singh son of late Phul Singh in the court Shri of A.K.Sharma, Civil Judge (Junior Division), Karnal. This plea of the petitioner was not accepted by the court below in view of the fact that the petitioner had not only participated in the proceedings through a counsel before the learned Trial Court but had in fact applied for the certified copy on the date when the judgment and decree was passed and the same was supplied to him on the next date and therefore, there was hardly any reason to believe that the petitioner came to know abut the judgment and decree only on 17.1.2006. The stand taken was absolutely wrong and therefore, the learned court below rightly came to the conclusion that there was therefore, no sufficient cause for condoning the delay.

Learned counsel for the petitioner vehemently contended that in the present case certain property of the petitioner has been included in the judgment and decree and therefore, he is the only sufferer in pursuance to the judgment and decree which is the outcome of fraud and therefore, the court should have condoned the delay.

The petitioner was very much party to the decree and the finding recorded by the court was within the knowledge of the petitioner. It is only wrong findings which give right to a party to file an appeal and therefore, cannot be a ground for condonation of delay as is sought to be pleaded.

Learned counsel for the petitioner also placed reliance on the judgment of Hon'ble Supreme Court in **Collector, Land Acquisition, Anantnag and another Vs. Mst. Katiji and others AIR 1987 SC 1353** to contend that words expression “sufficient cause” should be applied

liberally and on showing of some cause the delay should normally be condoned as by condonation of delay the parties only get a right to get decided a dispute on merits.

I have considered the arguments of the learned counsel for the petitioner and gone through the cited judgment. The facts of that case do not apply as in the present case the petitioner has pleaded a wrong fact that the appeal was filed on account of knowledge of decree having been obtained on 17.1.2005. That fact was found to be wrong as it was noticed that the certified copy was applied on the date of passing of the decree and the same was supplied on the next date. The Hon'ble Supreme Court has held that the High Court should not interfere in exercise of jurisdiction by the court below. Once the District Judge has failed to condone the delay there is no error in exercise of jurisdiction which may call for interference by this Court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

2.11.2006
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